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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,070	02/19/2004	Barbara Stephenson	23-0220	4520

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EXAMINER

JOHNSON, JERROLD D

ART UNIT PAPER NUMBER

3728

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/782,070

Applicant(s)

STEPHENSON, BARBARA

Examiner

Jerrold Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The drawings appear to show opaque dividers, however, this is not set forth in the specification.

Claim Objections

Claims 5 and 16 are objected to because of the following informalities: Claim 5 sets forth subject matter already set forth in independent claim 1. Claim 16, last line, "ids" should be "is". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4-6, and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Witt US 2,125,856 in view of Peickert US 6,129,219.

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Re claim 1, De Witt discloses a container system capable of storing and presenting craft materials for use, comprising a transparent plastic housing, a lateral divider positioned within the housing, a plurality of longitudinal dividers, and a hingebly mounted transparent lid having an open position characterized by the lid being located rearwardly of the housing.

De Witt does not disclose a plurality of lateral dividers, or dividers having an inclined orientation.

Peickert discloses how a plurality of lateral dividers 36 are utilized in a storage container system having a housing 11 within which a plurality of cylindrical containers (vials) 14 suitable for craft materials such as beads (non-food items col. 3, line 7). The lateral dividers are disposed in the housing such that the divider walls are inclined away from a user positioned at the front of the housing during use. In col. 3, line 10, Peickert discloses that the dividers are suitable for use in either a receptacle (not shown) or a drawer (shown).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the container system of De Witt to first include a plurality of lateral dividers and second dispose the lateral dividers at an inclined orientation so that the containers of craft items could be viewed from the side, not just from the top, so as to provide quicker identification of the craft items.

Re claim 4, De Witt discloses at least one longitudinal divider.

Re claim 5, the housing of De Witt is transparent.

Re claim 6, the size of container of De Witt is not disclosed. The size limitations of this claim have been carefully considered. However, the Examiner first notes that transparent storage boxes, such as are disclosed by De Witt have been long available in a wide variety of sizes, many with a plurality of lateral dividers to separate craft materials within the dividers. Additionally, the Examiner notes beads have commonly been stored in tubes (see extrinsic evidence "Bags vs. Tubes vs Hanks & Grams vs. Ounces" from Oct. 1999, provided herewith). Finally, the Examiner further notes that the size of the claimed container is not tied to any specific function, and that the claimed container does not function differently than the prior art device of De Witt. See *Gardner v. TEC Systems, Inc.* MPEP 2144.04 IV. A.

Accordingly, it would have been obvious to one of ordinary skill in the art to have made the container system of De Witt in the sizes claimed so as to be capable of storing up to seventy-two plastic bead containers having a uniform size of 14mm by 60mm.

Re claim 13, Peickert discloses substantially cylindrical vials capable of holding beads.

Re claim 14, De Witt in view of Peickert does not disclose an opaque lateral divider.

However, no advantage or utility to this arrangement is disclosed, nor is any stated problem solved by this arrangement.

Accordingly, such an arrangement is considered to be an aesthetic choice of design. And it would have been obvious to one of ordinary skill in the art to have made

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the container system of De Witt in view of Peickert with opaque dividers so as to distinguish the container system in the marketplace.

Claims 2,3 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Witt US 2,125,856 in view of Peickert US 6,129,219, as set forth above, and further in view of Folsom 4,852,725.

Re claims 2 and 15, De Witt in view of Peickert does not disclose the lid abutting a top edge of the perimeter wall of the housing when the lid is in the closed position or dividers at a 45 degree angle.

Disposing a lid in such a way that the lid abuts a top edge of the perimeter wall of the housing (such that the perimeter edge of the lid and the top edge of the perimeter wall are in the same plane) when the lid is in the closed position is common in containers so as to produce an aesthetically attractive container, and Folsom discloses this arrangement.

Re claim 3, Folsom further discloses disposing lateral dividers at a 45 degree angle so as to maximize the capacity of the container.

Accordingly, it would have been obvious to one of ordinary skill in the art to have made the container system of De Witt in view of Peickert with the teaching of the lid abutting housing perimeter wall when closed so as to provide an aesthetically pleasing appearance for the container. It further would have been obvious to dispose the dividers at a 45 degree angle so as to maximize the capacity of the container, while still

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providing the user the ability to view the side of craft material containers (as opposed to merely the cap) disposed within the housing.

Re claim 16, please note that the claimed limitations have all been addressed previously in this Office Action.

Re claim 17, De Witt in view of Peickert and further in view of Folsom do not disclose this exact number of dividers.

However, a duplication of parts disclosed in the prior art does not render a claim patentable. Clearly, in this situation, it would have been obvious to one of ordinary skill in the art to have made the container system of De Witt in view of Peickert and further in view of Folsom to have made a container system with any number of lateral dividers so as to provide a storage capacity for a desired number of craft containers within the storage container system.

Re claims 7-12 note the rejection of claims 1-6 and 13-17, which set forth the rejection of the claimed limitations of claim 7-12.

Allowable Subject Matter

As indicated in the conversation of May 14, 2005 that was initiated by the Examiner, and during which no agreement was made, claim 7 would be allowable if amended to include a positive recitation of the plastic bead containers having a size of 14mm by 60mm. Were the claim amended in this way, the size limitations of the

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container system would be correlated to the relationship of the size of the bead containers positively in the claim. Currently this relationship is set forth in the claims through intended use limitations only, and those intended use limitations are met by the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ


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